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Attorney for Defendant
VIRTUAL BARCODE DISTRIBUTION LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

AXS GROUP LLC,

Case No.: 2:24-cv-00377-SPG-(Ex)

Plaintiff,

VS.

INTERNET REFERRAL SERVICES,
LLC; EVENT TICKETS CENTER, INC.;
VIRTUAL BARCODE DISTRIBUTION
LLC; ALTAN TANRIVERDI; AND
SECURE TICKETS.

**DEFENDANT'S VIRTUAL
BARCODE DISTRIBUTION LLC'S
ANSWER TO PLAINTIFF'S FIRST
AMENDED VERIFIED
COMPLAINT**

Complaint served: May 13, 2024
Current response date: July 3, 2024
New response date: August 2, 2024

Defendants.

Defendants VIRTUAL BARCODE DISTRIBUTION LLC hereby respond to Plaintiff AXS GROUP LLC's First Amended Complaint as follows:

VIRTUAL BARCODE DISTRIBUTION LLC'S **ANSWER**

Defendant VIRTUAL BARCODE DISTRIBUTION LLC (“Defendant” or “VBD”) hereby answers the Complaint of Plaintiff AXS GROUP LLC, as follows:

1. Paragraph 1, VBD denies each and every allegation contained therein as it pertains to Defendant VBD. VBD lacks information sufficient to form a belief as to the truth of all remaining allegations, further they consist of conclusions of law and/or statements of Plaintiff's position to which no response is required by Defendant VBD; to the extent a response is required, denied.
 2. Paragraph 2, Defendant VBD lacks information sufficient to form a belief as to the truth of said allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, denied.
 3. Paragraph 3 Defendant VBD lacks information sufficient to form a belief as to the truth of said allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, Defendant is without information and knowledge sufficient to form a belief as to the truth or falsity of the statements made in Paragraph 3.
 4. Paragraph 4 Defendant VBD lacks information sufficient to form a belief as to the truth of said allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, Defendant is without information and knowledge sufficient to form a belief as to the truth or falsity of the statements made in Paragraph 4.

- 1 5. Paragraph 5 Defendant VBD lacks information sufficient to form a belief as to
2 the truth of said allegations, further the allegations consist of conclusions of
3 law and/or statements of Plaintiff's position to which no response is required;
4 to the extent a response is required, Defendant is without information and
5 knowledge sufficient to form a belief as to the truth or falsity of the statements
6 made in Paragraph 5.
- 7 6. Paragraph 6 Defendant VBD lacks information sufficient to form a belief as to
8 the truth of said allegations, further the allegations consist of conclusions of
9 law and/or statements of Plaintiff's position to which no response is required;
10 to the extent a response is required, Defendant is without information and
11 knowledge sufficient to form a belief as to the truth or falsity of the statements
12 made in Paragraph 6.
- 13 7. Paragraph 7 VBD denies each and every allegation contained therein as it
14 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
15 as to the truth of all remaining allegations, further the allegations consist of
16 conclusions of law and/or statements of Plaintiff's position to which no
17 response is required; to the extent a response is required, denied.
- 18 8. Paragraph 8 VBD denies each and every allegation contained therein as it
19 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
20 as to the truth of all remaining allegations, further the allegations consist of
21 conclusions of law and/or statements of Plaintiff's position to which no
22 response is required; to the extent a response is required, denied.
- 23 9. Paragraph 9 VBD denies each and every allegation contained therein as it
24 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
25 as to the truth of all remaining allegations, further the allegations consist of
26 conclusions of law and/or statements of Plaintiff's position to which no
27 response is required; to the extent a response is required, denied.

- 1 10. Paragraph 10 Defendant VBD lacks information sufficient to form a belief as
2 to the truth of said allegations, further the allegations consist of conclusions of
3 law and/or statements of Plaintiff's position to which no response is required;
4 to the extent a response is required, Defendant is without information and
5 knowledge sufficient to form a belief as to the truth or falsity of the statements
6 made in Paragraph 10.
- 7 11. Paragraph 11 Defendant VBD lacks information sufficient to form a belief as
8 to the truth of said allegations, further the allegations consist of conclusions of
9 law and/or statements of Plaintiff's position to which no response is required;
10 to the extent a response is required, Defendant is without information and
11 knowledge sufficient to form a belief as to the truth or falsity of the statements
12 made in Paragraph 11.
- 13 12. Paragraph 12 Defendant VBD lacks information sufficient to form a belief as
14 to the truth of said allegations, further the allegations consist of conclusions of
15 law and/or statements of Plaintiff's position to which no response is required;
16 to the extent a response is required, Defendant is without information and
17 knowledge sufficient to form a belief as to the truth or falsity of the statements
18 made in Paragraph 12.
- 19 13. Paragraph 13 VBD admits it is a limited liability company organized under the
20 laws of the State of New York. VBD lacks information sufficient to form a
21 belief as to the truth of all remaining allegations, further the allegations consist
22 of conclusions of law and/or statements of Plaintiff's position to which no
23 response is required; to the extent a response is required, denied.
- 24 14. Paragraph 14 Defendant VBD lacks information sufficient to form a belief as
25 to the truth of said allegations, further the allegations consist of conclusions of
26 law and/or statements of Plaintiff's position to which no response is required;
27 to the extent a response is required, Defendant is without information and

1 knowledge sufficient to form a belief as to the truth or falsity of the statements
2 made in Paragraph 14.

3 15. Paragraph 15 Defendant VBD lacks information sufficient to form a belief as
4 to the truth of said allegations, further the allegations consist of conclusions of
5 law and/or statements of Plaintiff's position to which no response is required;
6 to the extent a response is required, Defendant is without information and
7 knowledge sufficient to form a belief as to the truth or falsity of the statements
8 made in Paragraph 15.

9 16. Paragraph 16 Defendant VBD lacks information sufficient to form a belief as
10 to the truth of said allegations, further the allegations consist of conclusions of
11 law and/or statements of Plaintiff's position to which no response is required;
12 to the extent a response is required, Defendant is without information and
13 knowledge sufficient to form a belief as to the truth or falsity of the statements
14 made in Paragraph 16.

15 17. Paragraph 17, Defendant VBD admits subject matter jurisdiction is proper.

16 18. Paragraph 18, Defendant VBD admits supplement jurisdiction is proper, but
17 denies all other allegations of this Paragraph.

18 19. Paragraph 19 Defendant VBD admits personal jurisdiction is proper, but
19 denies all other allegations of this Paragraph.

20 20. Paragraph 20 VBD denies each and every allegation contained therein as it
21 pertains to Defendant VBD.

22 21. Paragraph 21 consists of conclusions of law and/or statements of Plaintiff's
23 position to which no response is required, to the extent a response is required,
24 denied.

25 22. Paragraph 22 Defendant VBD admits venue is proper, but denies all other
26 allegations of this Paragraph.

- 1 23. Paragraph 23 Defendant VBD lacks information sufficient to form a belief as
2 to the truth of said allegations, further the allegations consist of conclusions of
3 law and/or statements of Plaintiff's position to which no response is required;
4 to the extent a response is required, Defendant is without information and
5 knowledge sufficient to form a belief as to the truth or falsity of the statements
6 made in Paragraph 23.
- 7 24. Paragraph 24 Defendant VBD lacks information sufficient to form a belief as
8 to the truth of said allegations, further the allegations consist of conclusions of
9 law and/or statements of Plaintiff's position to which no response is required;
10 to the extent a response is required, Defendant is without information and
11 knowledge sufficient to form a belief as to the truth or falsity of the statements
12 made in Paragraph 24.
- 13 25. Paragraph 25 Defendant VBD lacks information sufficient to form a belief as
14 to the truth of said allegations, further the allegations consist of conclusions of
15 law and/or statements of Plaintiff's position to which no response is required;
16 to the extent a response is required, Defendant is without information and
17 knowledge sufficient to form a belief as to the truth or falsity of the statements
18 made in Paragraph 25.
- 19 26. Paragraph 26 Defendant VBD lacks information sufficient to form a belief as
20 to the truth of said allegations, further the allegations consist of conclusions of
21 law and/or statements of Plaintiff's position to which no response is required;
22 to the extent a response is required, Defendant is without information and
23 knowledge sufficient to form a belief as to the truth or falsity of the statements
24 made in Paragraph 26.
- 25 27. Paragraph 27 Defendant VBD lacks information sufficient to form a belief as
26 to the truth of said allegations, further the allegations consist of conclusions of
27 law and/or statements of Plaintiff's position to which no response is required;

1 to the extent a response is required, Defendant is without information and
2 knowledge sufficient to form a belief as to the truth or falsity of the statements
3 made in Paragraph 27.

4 28. Paragraph 28 Defendant VBD lacks information sufficient to form a belief as
5 to the truth of said allegations, further the allegations consist of conclusions of
6 law and/or statements of Plaintiff's position to which no response is required;
7 to the extent a response is required, Defendant is without information and
8 knowledge sufficient to form a belief as to the truth or falsity of the statements
9 made in Paragraph 28.

10 29. Paragraph 29 Defendant VBD lacks information sufficient to form a belief as
11 to the truth of said allegations, further the allegations consist of conclusions of
12 law and/or statements of Plaintiff's position to which no response is required;
13 to the extent a response is required, Defendant is without information and
14 knowledge sufficient to form a belief as to the truth or falsity of the statements
15 made in Paragraph 29.

16 30. Paragraph 30 Defendant VBD lacks information sufficient to form a belief as
17 to the truth of said allegations, further the allegations consist of conclusions of
18 law and/or statements of Plaintiff's position to which no response is required;
19 to the extent a response is required, Defendant is without information and
20 knowledge sufficient to form a belief as to the truth or falsity of the statements
21 made in Paragraph 30.

22 31. Paragraph 31 Defendant VBD lacks information sufficient to form a belief as
23 to the truth of said allegations, further the allegations consist of conclusions of
24 law and/or statements of Plaintiff's position to which no response is required;
25 to the extent a response is required, Defendant is without information and
26 knowledge sufficient to form a belief as to the truth or falsity of the statements
27 made in Paragraph 31.

- 1 32. Paragraph 32 Defendant VBD lacks information sufficient to form a belief as
2 to the truth of said allegations, further the allegations consist of conclusions of
3 law and/or statements of Plaintiff's position to which no response is required;
4 to the extent a response is required, Defendant is without information and
5 knowledge sufficient to form a belief as to the truth or falsity of the statements
6 made in Paragraph 32.
- 7 33. Paragraph 33 Defendant VBD lacks information sufficient to form a belief as
8 to the truth of said allegations, further the allegations consist of conclusions of
9 law and/or statements of Plaintiff's position to which no response is required;
10 to the extent a response is required, Defendant is without information and
11 knowledge sufficient to form a belief as to the truth or falsity of the statements
12 made in Paragraph 33.
- 13 34. Paragraph 34 Defendant VBD lacks information sufficient to form a belief as
14 to the truth of said allegations, further the allegations consist of conclusions of
15 law and/or statements of Plaintiff's position to which no response is required;
16 to the extent a response is required, Defendant is without information and
17 knowledge sufficient to form a belief as to the truth or falsity of the statements
18 made in Paragraph 34.
- 19 35. Paragraph 35 Defendant VBD lacks information sufficient to form a belief as
20 to the truth of said allegations, further the allegations consist of conclusions of
21 law and/or statements of Plaintiff's position to which no response is required;
22 to the extent a response is required, Defendant is without information and
23 knowledge sufficient to form a belief as to the truth or falsity of the statements
24 made in Paragraph 35.
- 25 36. Paragraph 36 Defendant VBD lacks information sufficient to form a belief as
26 to the truth of said allegations, further the allegations consist of conclusions of
27 law and/or statements of Plaintiff's position to which no response is required;

1 to the extent a response is required, Defendant is without information and
2 knowledge sufficient to form a belief as to the truth or falsity of the statements
3 made in Paragraph 36, to the extent a response is required, denied.

4 37. Paragraph 37 Defendant VBD lacks information sufficient to form a belief as
5 to the truth of said allegations, further the allegations consist of conclusions of
6 law and/or statements of Plaintiff's position to which no response is required;
7 to the extent a response is required, Defendant is without information and
8 knowledge sufficient to form a belief as to the truth or falsity of the statements
9 made in Paragraph 37.

10 38. Paragraph 38 Defendant VBD lacks information sufficient to form a belief as
11 to the truth of said allegations, further the allegations consist of conclusions of
12 law and/or statements of Plaintiff's position to which no response is required;
13 to the extent a response is required, Defendant is without information and
14 knowledge sufficient to form a belief as to the truth or falsity of the statements
15 made in Paragraph 38.

16 39. Paragraph 39 Defendant VBD lacks information sufficient to form a belief as
17 to the truth of said allegations, further the allegations consist of conclusions of
18 law and/or statements of Plaintiff's position to which no response is required;
19 to the extent a response is required, Defendant is without information and
20 knowledge sufficient to form a belief as to the truth or falsity of the statements
21 made in Paragraph 39.

22 40. Paragraph 40, Defendant VBD admits Plaintiff is listed as the owner of the
23 trademarks United States Patent and Trademark Office identified in Paragraph
24 40. As to all other allegations, VBD lacks information sufficient to form a
25 belief as to the truth of said allegations, further the allegations consist of
26 conclusions of law and/or statements of Plaintiff's position to which no
27 response is required; to the extent a response is required, Defendant is without

1 information and knowledge sufficient to form a belief as to the truth or falsity
2 of the statements made in Paragraph 40.

3 41. Paragraph 41 Defendant VBD admits Plaintiff is listed as the owner of the
4 trademarks in the United States Patent and Trademark Office identified in
5 Exhibit H. As to all other allegations, VBD lacks information sufficient to form
6 a belief as to the truth of said allegations, further the allegations consist of
7 conclusions of law and/or statements of Plaintiff's position to which no
8 response is required; to the extent a response is required, Defendant is without
9 information and knowledge sufficient to form a belief as to the truth or falsity
10 of the statements made in Paragraph 41.

11 42. Paragraph 42 Defendant VBD lacks information sufficient to form a belief as
12 to the truth of said allegations, further the allegations consist of conclusions of
13 law and/or statements of Plaintiff's position to which no response is required;
14 to the extent a response is required, Defendant is without information and
15 knowledge sufficient to form a belief as to the truth or falsity of the statements
16 made in Paragraph 42.

17 43. Paragraph 43 Defendant VBD lacks information sufficient to form a belief as
18 to the truth of said allegations, further the allegations consist of conclusions of
19 law and/or statements of Plaintiff's position to which no response is required;
20 to the extent a response is required, Defendant is without information and
21 knowledge sufficient to form a belief as to the truth or falsity of the statements
22 made in Paragraph 43.

23 44. Paragraph 44 Defendant VBD admits Plaintiff is listed as the owner of the
24 copyrights in the United States Library of Congress. As to all other allegations,
25 VBD lacks information sufficient to form a belief as to the truth of said
26 allegations, further the allegations consist of conclusions of law and/or
27 statements of Plaintiff's position to which no response is required; to the extent
10

1 a response is required, Defendant is without information and knowledge
2 sufficient to form a belief as to the truth or falsity of the statements made in
3 Paragraph 44.

4 45. Paragraph 45 Defendant VBD admits Plaintiff is listed as the owner of the
5 copyrights in the United States Library of Congress. As to all other allegations,
6 VBD lacks information sufficient to form a belief as to the truth of said
7 allegations, further the allegations consist of conclusions of law and/or
8 statements of Plaintiff's position to which no response is required; to the extent
9 a response is required, Defendant is without information and knowledge
10 sufficient to form a belief as to the truth or falsity of the statements made in
11 Paragraph 45.

12 46. Paragraph 46 Defendant VBD admits Plaintiff is listed as the owner of the
13 copyrights in the United States Library of Congress. As to all other allegations,
14 VBD lacks information sufficient to form a belief as to the truth of said
15 allegations, further the allegations consist of conclusions of law and/or
16 statements of Plaintiff's position to which no response is required; to the extent
17 a response is required, Defendant is without information and knowledge
18 sufficient to form a belief as to the truth or falsity of the statements made in
19 Paragraph 46.

20 47. Paragraph 47 consists of conclusions of law and/or statements of Plaintiff's
21 position to which no response is required; to the extent a response is required,
22 Defendant is without information and knowledge sufficient to form a belief as
23 to the truth or falsity of the statements made in Paragraph 47.

24 48. Paragraph 48 Defendant VBD lacks information sufficient to form a belief as
25 to the truth of said allegations, further the allegations consist of conclusions of
26 law and/or statements of Plaintiff's position to which no response is required;
27 to the extent a response is required, Defendant is without information and

1 knowledge sufficient to form a belief as to the truth or falsity of the statements
2 made in Paragraph 48.

3 49. Paragraph 49 consists of conclusions of law and/or statements of Plaintiff's
4 position to which no response is required; to the extent a response is required,
5 Defendant is without information and knowledge sufficient to form a belief as
6 to the truth or falsity of the statements made in Paragraph 49.

7 50. Paragraph 50 consists of conclusions of law and/or statements of Plaintiff's
8 position to which no response is required; to the extent a response is required,
9 Defendant is without information and knowledge sufficient to form a belief as
10 to the truth or falsity of the statements made in Paragraph 50.

11 51. Paragraph 51 consists of conclusions of law and/or statements of Plaintiff's
12 position to which no response is required; to the extent a response is required,
13 Defendant is without information and knowledge sufficient to form a belief as
14 to the truth or falsity of the statements made in Paragraph 51.

15 52. Paragraph 52 consists of conclusions of law and/or statements of Plaintiff's
16 position to which no response is required.

17 53. Paragraph 53 VBD denies each and every allegation contained therein as it
18 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
19 as to the truth of all remaining allegations, further the allegations consist of
20 conclusions of law and/or statements of Plaintiff's position to which no
21 response is required; to the extent a response is required, denied.

22 54. Paragraph 54 consists of conclusions of law and/or statements of Plaintiff's
23 position to which no response is required; to the extent a response is required,
24 Defendant is without information and knowledge sufficient to form a belief as
25 to the truth or falsity of the statements made in Paragraph 54.

26 55. Paragraph 55 consists of conclusions of law and/or statements of Plaintiff's
27 position to which no response is required; to the extent a response is required,

Defendant is without information and knowledge sufficient to form a belief as to the truth or falsity of the statements made in Paragraph 55.

56. Paragraph 56 consists of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, Defendant is without information and knowledge sufficient to form a belief as to the truth or falsity of the statements made in Paragraph 56.

57. Paragraph 57 VBD denies each and every allegation contained therein as it pertains to Defendant VBD. VBD lacks information sufficient to form a belief as to the truth of all remaining allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, denied.

58. Paragraph 58 VBD denies each and every allegation contained therein as it pertains to Defendant VBD. VBD lacks information sufficient to form a belief as to the truth of all remaining allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, denied.

59. Paragraph 59 VBD denies each and every allegation contained therein as it pertains to Defendant VBD. VBD lacks information sufficient to form a belief as to the truth of all remaining allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, denied.

60. Paragraph 60 VBD denies each and every allegation contained therein as it pertains to Defendant VBD. VBD lacks information sufficient to form a belief as to the truth of all remaining allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, denied.

- 1 61. Paragraph 61 VBD denies each and every allegation contained therein as it
2 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
3 as to the truth of all remaining allegations, further the allegations consist of
4 conclusions of law and/or statements of Plaintiff's position to which no
5 response is required; to the extent a response is required, denied.
- 6 62. Paragraph 62 VBD denies each and every allegation contained therein as it
7 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
8 as to the truth of all remaining allegations, further the allegations consist of
9 conclusions of law and/or statements of Plaintiff's position to which no
10 response is required; to the extent a response is required, denied.
- 11 63. Paragraph 63 VBD denies each and every allegation contained therein as it
12 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
13 as to the truth of all remaining allegations, further the allegations consist of
14 conclusions of law and/or statements of Plaintiff's position to which no
15 response is required; to the extent a response is required, denied.
- 16 64. Paragraph 64 VBD denies each and every allegation contained therein as it
17 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
18 as to the truth of all remaining allegations, further the allegations consist of
19 conclusions of law and/or statements of Plaintiff's position to which no
20 response is required; to the extent a response is required, denied.
- 21 65. Paragraph 65 VBD denies each and every allegation contained therein as it
22 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
23 as to the truth of all remaining allegations, further the allegations consist of
24 conclusions of law and/or statements of Plaintiff's position to which no
25 response is required; to the extent a response is required, denied.
- 26 66. Paragraph 66 Defendant VBD lacks information sufficient to form a belief as
27 to the truth of said allegations, further the allegations consist of conclusions of

1 law and/or statements of Plaintiff's position to which no response is required;
2 to the extent a response is required, Defendant is without information and
3 knowledge sufficient to form a belief as to the truth or falsity of the statements
4 made in Paragraph 66.

5 67. Paragraph 67 Defendant VBD lacks information sufficient to form a belief as
6 to the truth of said allegations, further the allegations consist of conclusions of
7 law and/or statements of Plaintiff's position to which no response is required;
8 to the extent a response is required, Defendant is without information and
9 knowledge sufficient to form a belief as to the truth or falsity of the statements
10 made in Paragraph 67.

11 68. Paragraph 68 Defendant VBD lacks information sufficient to form a belief as
12 to the truth of said allegations, further the allegations consist of conclusions of
13 law and/or statements of Plaintiff's position to which no response is required;
14 to the extent a response is required, Defendant is without information and
15 knowledge sufficient to form a belief as to the truth or falsity of the statements
16 made in Paragraph 68.

17 69. Paragraph 69 Defendant VBD lacks information sufficient to form a belief as
18 to the truth of said allegations, further the allegations consist of conclusions of
19 law and/or statements of Plaintiff's position to which no response is required;
20 to the extent a response is required, Defendant is without information and
21 knowledge sufficient to form a belief as to the truth or falsity of the statements
22 made in Paragraph 69.

23 70. Paragraph 70 Defendant VBD lacks information sufficient to form a belief as
24 to the truth of said allegations, further the allegations consist of conclusions of
25 law and/or statements of Plaintiff's position to which no response is required;
26 to the extent a response is required, Defendant is without information and

1 knowledge sufficient to form a belief as to the truth or falsity of the statements
2 made in Paragraph 70.

3 71. Paragraph 71 Defendant VBD lacks information sufficient to form a belief as
4 to the truth of said allegations, further the allegations consist of conclusions of
5 law and/or statements of Plaintiff's position to which no response is required;
6 to the extent a response is required, Defendant is without information and
7 knowledge sufficient to form a belief as to the truth or falsity of the statements
8 made in Paragraph 71.

9 72. Paragraph 72 Defendant VBD lacks information sufficient to form a belief as
10 to the truth of said allegations, further the allegations consist of conclusions of
11 law and/or statements of Plaintiff's position to which no response is required;
12 to the extent a response is required, Defendant is without information and
13 knowledge sufficient to form a belief as to the truth or falsity of the statements
14 made in Paragraph 72.

15 73. Paragraph 73 Defendant VBD lacks information sufficient to form a belief as
16 to the truth of said allegations, further the allegations consist of conclusions of
17 law and/or statements of Plaintiff's position to which no response is required;
18 to the extent a response is required, Defendant is without information and
19 knowledge sufficient to form a belief as to the truth or falsity of the statements
20 made in Paragraph 73.

21 74. Paragraph 74 Defendant VBD lacks information sufficient to form a belief as
22 to the truth of said allegations, further the allegations consist of conclusions of
23 law and/or statements of Plaintiff's position to which no response is required;
24 to the extent a response is required, Defendant is without information and
25 knowledge sufficient to form a belief as to the truth or falsity of the statements
26 made in Paragraph 74.

75. Paragraph 75 Defendant VBD lacks information sufficient to form a belief as to the truth of said allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, Defendant is without information and knowledge sufficient to form a belief as to the truth or falsity of the statements made in Paragraph 75.

76. Paragraph 76 Defendant VBD lacks information sufficient to form a belief as to the truth of said allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, Defendant is without information and knowledge sufficient to form a belief as to the truth or falsity of the statements made in Paragraph 76.

77. Paragraph 77 Defendant VBD lacks information sufficient to form a belief as to the truth of said allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, Defendant is without information and knowledge sufficient to form a belief as to the truth or falsity of the statements made in Paragraph 77.

78. Paragraph 78 Defendant VBD lacks information sufficient to form a belief as to the truth of said allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required; to the extent a response is required, Defendant is without information and knowledge sufficient to form a belief as to the truth or falsity of the statements made in Paragraph 78.

79. Paragraph 79 Defendant VBD lacks information sufficient to form a belief as to the truth of said allegations, further the allegations consist of conclusions of law and/or statements of Plaintiff's position to which no response is required;

1 to the extent a response is required, Defendant is without information and
2 knowledge sufficient to form a belief as to the truth or falsity of the statements
3 made in Paragraph 79.

4 80. Paragraph 80 Defendant VBD lacks information sufficient to form a belief as
5 to the truth of said allegations, further the allegations consist of conclusions of
6 law and/or statements of Plaintiff's position to which no response is required;
7 to the extent a response is required, Defendant is without information and
8 knowledge sufficient to form a belief as to the truth or falsity of the statements
9 made in Paragraph 80.

10 81. Paragraph 81 Defendant VBD lacks information sufficient to form a belief as
11 to the truth of said allegations, further the allegations consist of conclusions of
12 law and/or statements of Plaintiff's position to which no response is required;
13 to the extent a response is required, Defendant is without information and
14 knowledge sufficient to form a belief as to the truth or falsity of the statements
15 made in Paragraph 81.

16 82. Paragraph 82 Defendant VBD lacks information sufficient to form a belief as
17 to the truth of said allegations, further the allegations consist of conclusions of
18 law and/or statements of Plaintiff's position to which no response is required;
19 to the extent a response is required, Defendant is without information and
20 knowledge sufficient to form a belief as to the truth or falsity of the statements
21 made in Paragraph 82.

22 83. Paragraph 83 Defendant VBD lacks information sufficient to form a belief as
23 to the truth of said allegations, further the allegations consist of conclusions of
24 law and/or statements of Plaintiff's position to which no response is required;
25 to the extent a response is required, Defendant is without information and
26 knowledge sufficient to form a belief as to the truth or falsity of the statements
27 made in Paragraph 83.

1 84. Paragraph 84 Defendant VBD lacks information sufficient to form a belief as
2 to the truth of said allegations, further the allegations consist of conclusions of
3 law and/or statements of Plaintiff's position to which no response is required;
4 to the extent a response is required, Defendant is without information and
5 knowledge sufficient to form a belief as to the truth or falsity of the statements
6 made in Paragraph 84.

7 85. Paragraph 85 Defendant VBD lacks information sufficient to form a belief as
8 to the truth of said allegations, further the allegations consist of conclusions of
9 law and/or statements of Plaintiff's position to which no response is required;
10 to the extent a response is required, Defendant is without information and
11 knowledge sufficient to form a belief as to the truth or falsity of the statements
12 made in Paragraph 85.

13 86. Paragraph 86 Defendant VBD lacks information sufficient to form a belief as
14 to the truth of said allegations, further the allegations consist of conclusions of
15 law and/or statements of Plaintiff's position to which no response is required;
16 to the extent a response is required, Defendant is without information and
17 knowledge sufficient to form a belief as to the truth or falsity of the statements
18 made in Paragraph 86.

19 87. Paragraph 87 Defendant VBD lacks information sufficient to form a belief as
20 to the truth of said allegations, further the allegations consist of conclusions of
21 law and/or statements of Plaintiff's position to which no response is required;
22 to the extent a response is required, Defendant is without information and
23 knowledge sufficient to form a belief as to the truth or falsity of the statements
24 made in Paragraph 87.

25 88. Paragraph 88 Defendant VBD lacks information sufficient to form a belief as
26 to the truth of said allegations, further the allegations consist of conclusions of
27 law and/or statements of Plaintiff's position to which no response is required;

1 to the extent a response is required, Defendant is without information and
2 knowledge sufficient to form a belief as to the truth or falsity of the statements
3 made in Paragraph 88.

4 89. Paragraph 89 Defendant VBD lacks information sufficient to form a belief as
5 to the truth of said allegations, further the allegations consist of conclusions of
6 law and/or statements of Plaintiff's position to which no response is required;
7 to the extent a response is required, Defendant is without information and
8 knowledge sufficient to form a belief as to the truth or falsity of the statements
9 made in Paragraph 89.

10 90. Paragraph 90 Defendant VBD lacks information sufficient to form a belief as
11 to the truth of said allegations, further the allegations consist of conclusions of
12 law and/or statements of Plaintiff's position to which no response is required;
13 to the extent a response is required, Defendant is without information and
14 knowledge sufficient to form a belief as to the truth or falsity of the statements
15 made in Paragraph 90.

16 91. Paragraph 91 VBD denies each and every allegation contained therein as it
17 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
18 as to the truth of all remaining allegations, further the allegations consist of
19 conclusions of law and/or statements of Plaintiff's position to which no
20 response is required; to the extent a response is required, denied.

21 92. Paragraph 92 VBD denies each and every allegation contained therein as it
22 pertains to Defendant VBD. VBD lacks information sufficient to form a belief
23 as to the truth of all remaining allegations, further the allegations consist of
24 conclusions of law and/or statements of Plaintiff's position to which no
25 response is required; to the extent a response is required, denied.

26 93. Paragraph 93 Defendant VBD lacks information sufficient to form a belief as
27 to the truth of said allegations, further the allegations consist of conclusions of
28

1 law and/or statements of Plaintiff's position to which no response is required;
2 to the extent a response is required, Defendant is without information and
3 knowledge sufficient to form a belief as to the truth or falsity of the statements
4 made in Paragraph 93.

5 94. Paragraph 94 Defendant VBD lacks information sufficient to form a belief as
6 to the truth of said allegations, further the allegations consist of conclusions of
7 law and/or statements of Plaintiff's position to which no response is required;
8 to the extent a response is required, Defendant is without information and
9 knowledge sufficient to form a belief as to the truth or falsity of the statements
10 made in Paragraph 94.

11 95. Paragraph 95 consists of conclusions of law and/or statements of Plaintiff's
12 position to which no response is required.

13 96. Paragraph 96 Defendant VBD lacks information sufficient to form a belief as
14 to the truth of said allegations and, on that basis, denies each and every
15 allegation contained therein.

16 97. Paragraph 97 Defendant VBD lacks information sufficient to form a belief as
17 to the truth of said allegations and, on that basis, denies each and every
18 allegation contained therein.

19 98. Paragraph 98 Defendant VBD lacks information sufficient to form a belief as
20 to the truth of said allegations and, on that basis, denies each and every
21 allegation contained therein.

22 99. Paragraph 99 Defendant VBD lacks information sufficient to form a belief as
23 to the truth of said allegations and, on that basis, denies each and every
24 allegation contained therein.

25 100. Paragraph 100 VBD denies each and every allegation contained therein
26 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
27 belief as to the truth of all remaining allegations, further the allegations consist

1 of conclusions of law and/or statements of Plaintiff's position to which no
2 response is required; to the extent a response is required, denied.

3 101. Paragraph 101 VBD denies each and every allegation contained therein
4 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
5 belief as to the truth of all remaining allegations, further the allegations consist
6 of conclusions of law and/or statements of Plaintiff's position to which no
7 response is required; to the extent a response is required, denied.

8 102. Paragraph 102 VBD denies each and every allegation contained therein
9 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
10 belief as to the truth of all remaining allegations, further the allegations consist
11 of conclusions of law and/or statements of Plaintiff's position to which no
12 response is required; to the extent a response is required, denied.

13 103. Paragraph 103 VBD denies each and every allegation contained therein
14 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
15 belief as to the truth of all remaining allegations, further the allegations consist
16 of conclusions of law and/or statements of Plaintiff's position to which no
17 response is required; to the extent a response is required, denied.

18 104. Paragraph 104 VBD denies each and every allegation contained therein
19 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
20 belief as to the truth of all remaining allegations, further the allegations consist
21 of conclusions of law and/or statements of Plaintiff's position to which no
22 response is required; to the extent a response is required, denied.

23 105. Paragraph 105 VBD denies each and every allegation contained therein
24 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
25 belief as to the truth of all remaining allegations, further the allegations consist
26 of conclusions of law and/or statements of Plaintiff's position to which no
27 response is required; to the extent a response is required, denied.

106. Paragraph 106 VBD denies each and every allegation contained therein
as it pertains to Defendant VBD. VBD lacks information sufficient to form a
belief as to the truth of all remaining allegations, further the allegations consist
of conclusions of law and/or statements of Plaintiff's position to which no
response is required; to the extent a response is required, denied.

107. Paragraph 107 consists of conclusions of law and/or statements of
Plaintiff's position to which no response is required.

108. Paragraph 108 Defendant VBD lacks information sufficient to form a
belief as to the truth of said allegations and, on that basis, denies each and
every allegation contained therein.

109. Paragraph 109 Defendant VBD lacks information sufficient to form a
belief as to the truth of said allegations and, on that basis, denies each and
every allegation contained therein.

110. Paragraph 110 VBD denies each and every allegation contained therein
as it pertains to Defendant VBD. VBD lacks information sufficient to form a
belief as to the truth of all remaining allegations, further the allegations consist
of conclusions of law and/or statements of Plaintiff's position to which no
response is required; to the extent a response is required, denied.

111. Paragraph 111 VBD denies each and every allegation contained therein
as it pertains to Defendant VBD. VBD lacks information sufficient to form a
belief as to the truth of all remaining allegations, further the allegations consist
of conclusions of law and/or statements of Plaintiff's position to which no
response is required; to the extent a response is required, denied.

112. Paragraph 112 VBD denies each and every allegation contained therein
as it pertains to Defendant VBD. VBD lacks information sufficient to form a
belief as to the truth of all remaining allegations, further the allegations consist

1 of conclusions of law and/or statements of Plaintiff's position to which no
2 response is required; to the extent a response is required, denied.

3 113. Paragraph 113 VBD denies each and every allegation contained therein
4 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
5 belief as to the truth of all remaining allegations, further the allegations consist
6 of conclusions of law and/or statements of Plaintiff's position to which no
7 response is required; to the extent a response is required, denied.

8 114. Paragraph 114 VBD denies each and every allegation contained therein
9 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
10 belief as to the truth of all remaining allegations, further the allegations consist
11 of conclusions of law and/or statements of Plaintiff's position to which no
12 response is required; to the extent a response is required, denied.

13 115. Paragraph 115 consists of conclusions of law and/or statements of
14 Plaintiff's position to which no response is required.

15 116. Paragraph 116 Defendant VBD lacks information sufficient to form a
16 belief as to the truth of said allegations and, on that basis, denies each and
17 every allegation contained therein.

18 117. Paragraph 117 VBD denies each and every allegation contained therein
19 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
20 belief as to the truth of all remaining allegations, further the allegations consist
21 of conclusions of law and/or statements of Plaintiff's position to which no
22 response is required; to the extent a response is required, denied.

23 118. Paragraph 118 VBD denies each and every allegation contained therein
24 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
25 belief as to the truth of all remaining allegations, further the allegations consist
26 of conclusions of law and/or statements of Plaintiff's position to which no
27 response is required; to the extent a response is required, denied.

119. Paragraph 119 VBD denies each and every allegation contained therein
1 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
2 belief as to the truth of all remaining allegations, further the allegations consist
3 of conclusions of law and/or statements of Plaintiff's position to which no
4 response is required; to the extent a response is required, denied.
5

120. Paragraph 120 VBD denies each and every allegation contained therein
6 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
7 belief as to the truth of all remaining allegations, further the allegations consist
8 of conclusions of law and/or statements of Plaintiff's position to which no
9 response is required; to the extent a response is required, denied.
10

121. Paragraph 121 VBD denies each and every allegation contained therein
11 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
12 belief as to the truth of all remaining allegations, further the allegations consist
13 of conclusions of law and/or statements of Plaintiff's position to which no
14 response is required; to the extent a response is required, denied.
15

122. Paragraph 122 consists of conclusions of law and/or statements of
16 Plaintiff's position to which no response is required.
17

123. Paragraph 123 Defendant VBD lacks information sufficient to form a
18 belief as to the truth of said allegations and, on that basis, denies each and
19 every allegation contained therein.
20

124. Paragraph 124 VBD denies each and every allegation contained therein
21 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
22 belief as to the truth of all remaining allegations, further the allegations consist
23 of conclusions of law and/or statements of Plaintiff's position to which no
24 response is required; to the extent a response is required, denied.
25

125. Paragraph 125 VBD denies each and every allegation contained therein
26 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
27

1 belief as to the truth of all remaining allegations, further the allegations consist
2 of conclusions of law and/or statements of Plaintiff's position to which no
3 response is required; to the extent a response is required, denied.

4 126. Paragraph 126 VBD denies each and every allegation contained therein
5 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
6 belief as to the truth of all remaining allegations, further the allegations consist
7 of conclusions of law and/or statements of Plaintiff's position to which no
8 response is required; to the extent a response is required, denied.

9 127. Paragraph 127 VBD denies each and every allegation contained therein
10 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
11 belief as to the truth of all remaining allegations, further the allegations consist
12 of conclusions of law and/or statements of Plaintiff's position to which no
13 response is required; to the extent a response is required, denied.

14 128. Paragraph 128 VBD denies each and every allegation contained therein
15 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
16 belief as to the truth of all remaining allegations, further the allegations consist
17 of conclusions of law and/or statements of Plaintiff's position to which no
18 response is required; to the extent a response is required, denied.

19 129. Paragraph 129 consists of conclusions of law and/or statements of
20 Plaintiff's position to which no response is required.

21 130. Paragraph 130 Defendant VBD lacks information sufficient to form a
22 belief as to the truth of said allegations and, on that basis, denies each and
23 every allegation contained therein.

24 131. Paragraph 131 VBD denies each and every allegation contained therein
25 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
26 belief as to the truth of all remaining allegations, further the allegations consist

1 of conclusions of law and/or statements of Plaintiff's position to which no
2 response is required; to the extent a response is required, denied.

3 132. Paragraph 132 VBD denies each and every allegation contained therein
4 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
5 belief as to the truth of all remaining allegations, further the allegations consist
6 of conclusions of law and/or statements of Plaintiff's position to which no
7 response is required; to the extent a response is required, denied.

8 133. Paragraph 133 VBD denies each and every allegation contained therein
9 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
10 belief as to the truth of all remaining allegations, further the allegations consist
11 of conclusions of law and/or statements of Plaintiff's position to which no
12 response is required; to the extent a response is required, denied.

13 134. Paragraph 134 VBD denies each and every allegation contained therein
14 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
15 belief as to the truth of all remaining allegations, further the allegations consist
16 of conclusions of law and/or statements of Plaintiff's position to which no
17 response is required; to the extent a response is required, denied.

18 135. Paragraph 135 VBD denies each and every allegation contained therein
19 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
20 belief as to the truth of all remaining allegations, further the allegations consist
21 of conclusions of law and/or statements of Plaintiff's position to which no
22 response is required; to the extent a response is required, denied.

23 136. Paragraph 136 consists of conclusions of law and/or statements of
24 Plaintiff's position to which no response is required.

25 137. Paragraph 137 Defendant VBD lacks information sufficient to form a
26 belief as to the truth of said allegations and, on that basis, denies each and
27 every allegation contained therein. 27

1 138. Paragraph 138 VBD denies each and every allegation contained therein
2 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
3 belief as to the truth of all remaining allegations, further the allegations consist
4 of conclusions of law and/or statements of Plaintiff's position to which no
5 response is required; to the extent a response is required, denied.

6 139. Paragraph 139 VBD denies each and every allegation contained therein
7 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
8 belief as to the truth of all remaining allegations, further the allegations consist
9 of conclusions of law and/or statements of Plaintiff's position to which no
10 response is required; to the extent a response is required, denied.

11 140. Paragraph 140 VBD denies each and every allegation contained therein
12 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
13 belief as to the truth of all remaining allegations, further the allegations consist
14 of conclusions of law and/or statements of Plaintiff's position to which no
15 response is required; to the extent a response is required, denied.

16 141. Paragraph 141 VBD denies each and every allegation contained therein
17 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
18 belief as to the truth of all remaining allegations, further the allegations consist
19 of conclusions of law and/or statements of Plaintiff's position to which no
20 response is required; to the extent a response is required, denied.

21 142. Paragraph 142 consists of conclusions of law and/or statements of
22 Plaintiff's position to which no response is required.

23 143. Paragraph 143 Defendant VBD lacks information sufficient to form a
24 belief as to the truth of said allegations and, on that basis, denies each and
25 every allegation contained therein.

26 144. Paragraph 144 VBD denies each and every allegation contained therein
27 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
28

1 belief as to the truth of all remaining allegations, further the allegations consist
2 of conclusions of law and/or statements of Plaintiff's position to which no
3 response is required; to the extent a response is required, denied.

4 145. Paragraph 145 VBD denies each and every allegation contained therein
5 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
6 belief as to the truth of all remaining allegations, further the allegations consist
7 of conclusions of law and/or statements of Plaintiff's position to which no
8 response is required; to the extent a response is required, denied.

9 146. Paragraph 146 VBD denies each and every allegation contained therein
10 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
11 belief as to the truth of all remaining allegations, further the allegations consist
12 of conclusions of law and/or statements of Plaintiff's position to which no
13 response is required; to the extent a response is required, denied.

14 147. Paragraph 147 VBD denies each and every allegation contained therein
15 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
16 belief as to the truth of all remaining allegations, further the allegations consist
17 of conclusions of law and/or statements of Plaintiff's position to which no
18 response is required; to the extent a response is required, denied.

19 148. Paragraph 148 VBD denies each and every allegation contained therein
20 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
21 belief as to the truth of all remaining allegations, further the allegations consist
22 of conclusions of law and/or statements of Plaintiff's position to which no
23 response is required; to the extent a response is required, denied.

24 149. Paragraph 149 consists of conclusions of law and/or statements of
25 Plaintiff's position to which no response is required.

26 150. Paragraph 150 VBD denies each and every allegation contained therein.

27 151. Paragraph 151 VBD denies each and every allegation contained therein.

152. Paragraph 152 VBD denies each and every allegation contained therein.

153. Paragraph 153 VBD denies each and every allegation contained therein.

154. Paragraph 154 VBD denies each and every allegation contained therein.

155. Paragraph 155 VBD denies each and every allegation contained therein.

156. Paragraph 156 VBD denies each and every allegation contained therein.

157. Paragraph 149 consists of conclusions of law and/or statements of

Plaintiff's position to which no response is required.

158. Paragraph 158 VBD denies each and every allegation contained therein

159. Paragraph 159 Defendant VBD lacks information sufficient to form a

belief as to the truth of said allegations and, on that basis, denies each and

every allegation contained therein.

160. Paragraph 160 VBD denies each and every allegation contained therein.

161. Paragraph 161 VBD denies each and every allegation contained therein

as it pertains to Defendant VBD. VBD lacks information sufficient to form a

belief as to the truth of all remaining allegations, further the allegations consist

of conclusions of law and/or statements of Plaintiff's position to which no

response is required; to the extent a response is required, denied.

162. Paragraph 162 VBD denies each and every allegation contained therein

as it pertains to Defendant VBD. VBD lacks information sufficient to form

belief as to the truth of all remaining allegations, further the allegations consist

of conclusions of law and/or statements of Plaintiff's position to which no

response is required; to the extent a response is required, denied.

163. Paragraph 163 consists of conclusions of law and/or statements of

Plaintiff's position to which no response is required; to the extent a response is

required, Defendant is without information and knowledge sufficient to

1 164. Paragraph 164 VBD denies each and every allegation contained therein
2 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
3 belief as to the truth of all remaining allegations, further the allegations consist
4 of conclusions of law and/or statements of Plaintiff's position to which no
5 response is required; to the extent a response is required, denied.

6 165. Paragraph 165 VBD denies each and every allegation contained therein
7 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
8 belief as to the truth of all remaining allegations, further the allegations consist
9 of conclusions of law and/or statements of Plaintiff's position to which no
10 response is required; to the extent a response is required, denied.

11 166. Paragraph 166 VBD denies each and every allegation contained therein
12 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
13 belief as to the truth of all remaining allegations, further the allegations consist
14 of conclusions of law and/or statements of Plaintiff's position to which no
15 response is required; to the extent a response is required, denied.

16 167. Paragraph 167 VBD denies each and every allegation contained therein
17 as it pertains to Defendant VBD. VBD lacks information sufficient to form a
18 belief as to the truth of all remaining allegations, further the allegations consist
19 of conclusions of law and/or statements of Plaintiff's position to which no
20 response is required; to the extent a response is required, denied.

21 **Prayer For Relief**

22 These paragraphs set forth the state of relief requested by Plaintiff to which no
23 response is required. Defendant VBD denies that Plaintiff is entitled to any of the
24 requested relief and denies any allegations contained in the Prayer For Relief to
25 which a response is required.

1 Defendant VBD denies each and every allegation of Plaintiff's Amended
2 Complaint not specifically admitted or otherwise responded to above. VBD
3 specifically denies that it has infringed or is liable for infringement of any valid and
4 enforceable trademarks of Plaintiffs. VBD further denies that it has infringed or is
5 liable for infringement of any valid and enforceable copyrights or copyright rights of
6 Plaintiff. VBD further specifically denies that Plaintiff is entitled to any relief
7 whatsoever of any kind against VBD as a result of any act of VBD or any person or
8 entity acting on behalf of VBD.

9

10 **AFFIRMATIVE DEFENSES**

11

12 **FIRST AFFIRMATIVE DEFENSE**

13

(Facts Insufficient to State Any Cause of Action)

14

15 1. The Complaint as a whole, and each purported cause of action alleged therein,
16 fails to state facts sufficient to constitute any cause of action against Defendant
upon which relief may be granted.

17

SECOND AFFIRMATIVE DEFENSE

18

(Statute of Limitations)

19

20 2 . The Complaint as a whole, and each purported cause of action alleged and
remedy sought therein, is barred in whole or in part by the applicable statute of
21 limitations, including but not limited to 15 U.S. Code § 4504.

22

23

THIRD AFFIRMATIVE DEFENSE

24

(Lack of Standing)

25

26 3. Plaintiff's Complaint, and each purported cause of action and/or form of
recovery therein, is barred to the extent that Plaintiff lacks standing to assert any of
27 the causes of action and/or form of recovery contained in the Complaint because

28

1 Plaintiff has not suffered any injury-in-fact or for which Plaintiff does not have a
2 private right of action.

3

4 **FOURTH AFFIRMATIVE DEFENSE**

5 (Waiver)

6 4. The Complaint, and each purported cause of action alleged therein, is barred
7 on the ground that Plaintiff has expressly and/or impliedly waived the right to assert
8 such causes of action by virtue of their verbal and expressions or conduct.

9

10 **FIFTH AFFIRMATIVE DEFENSE**

11 (Estoppel)

12 5. By virtue of her conduct, Plaintiff must be estopped from asserting any of
13 the
14 causes of action in the Complaint against Defendants.

15

16 **SIXTH AFFIRMATIVE DEFENSE**

17 (Laches)

18 6. Plaintiff is barred from proceeding with this action on the ground that
19 Plaintiff is guilty of laches in failing to timely commence this action, which has
20 prejudiced Defendants in its ability to discover adequate witnesses, testimony, facts,
and evidence to support Defendant's defenses.

21

22 **SEVENTH AFFIRMATIVE DEFENSE**

23 (Unclean Hands)

24 7. Defendants is informed and believes and thereon alleges that Plaintiff, by
25 their own conduct, is guilty of unclean hands, which completely bars or reduces
26 recovery, if any, to which she may be entitled, all in accordance with proof at trial.

27

28

1 **EIGHTH AFFIRMATIVE DEFENSE**

2 (Consent)

3 8. The Complaint, and each purported cause of action alleged therein, is barred
4 on the ground that at all times alleged in the Complaint, Plaintiff expressly or
5 impliedly assented to, ratified, or concurred with the conduct alleged to be unlawful.

6 **NINTH AFFIRMATIVE DEFENSE**

7 (Failure to Exhaust Administrative Remedies)

8 9. Plaintiff failed to exhaust available administrative remedies and is therefore
9 precluded from obtaining any relief under the alleged causes of action in the
10 complaint.

11 **TENTH AFFIRMATIVE DEFENSE**

12 (Federal and/or State Preemption)

13 10. Plaintiff's Complaint, and each claim contained therein, is barred to the
14 extent that Plaintiff's claims are preempted by federal and/or state law.

15 **ELEVENTH AFFIRMATIVE DEFENSE**

16 (Good Faith)

17 11. All actions taken by Defendants with respect to Plaintiff, at all times
18 relevant to this action, were taken in good faith for legitimate reasons.

21 **TWELFTH AFFIRMATIVE DEFENSE**

22 (Unconstitutional)

23 12. Plaintiff's cause of action for penalties is barred because it is
24 unconstitutionally vague and overbroad as applied to the facts and circumstances of
25 this case.

26 **THIRTEENTH AFFIRMATIVE DEFENSE**

27 (Offset₃₄)

13. Defendants alleges that it has suffered damages by reason of Plaintiff's conduct, and Defendants has a right to offset its damages against the damages, if any, of Plaintiff.

FOURTEENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

14. Without admitting any facts pled by Plaintiff, Defendants alleges that if Plaintiff sustained any loss, injury or damages either as alleged in the Complaint or at all, which Defendants expressly denies, the same were directly and proximately caused and/or exacerbated by Plaintiff's own conduct, promises and representations to Defendants, and failure to take actions to mitigate these losses, injuries, or damages.

FIFTEENTH AFFIRMATIVE DEFENSE

(Speculative Damages and/or Penalties)

15. Plaintiff is precluded from recovering the damages alleged in the Complaint because those damages and/or penalties are too vague, ambiguous, excessive, unreasonable, uncertain and speculative to permit recovery.

SIXTEENTH AFFIRMATIVE DEFENSE

(No Punitive Damages)

16. Defendants alleges that Plaintiff is not entitled to recover the punitive damages in her Complaint as an award of punitive damages would violate Defendant's rights under the Constitution of the United States of America, including Defendant's rights to (1) procedural due process under the Fourteenth Amendment of the United States Constitution; (2) protection for "excessive fines" as provided in the Eighth Amendment of the United States Constitution and Article I; and (3)

1 substantive due process provided in the Fifth and Fourteenth Amendments of the
2 United States of America.

3 **SEVENTEENTH AFFIRMATIVE DEFENSE**

4 (Release)

5 17. The Complaint, and each purported cause of action alleged therein, is
6 barred on the ground that Plaintiff released and waived any and all claims they may
7 have against Defendant.

8
9 **EIGHTEENTH AFFIRMATIVE DEFENSE**

10 (Business Necessity)

11 18. Any recovery on Plaintiff's Complaint is barred on the ground that every
12 action taken with respect to Plaintiff was done out of business necessity.

13 **NINETEEN AFFIRMATIVE DEFENSE**

14 (No Copyright Infringement)

15 19. VBD has not infringed, does not infringe (either directly or indirectly),
16 and is not liable for infringement of any valid copyright or copyright rights of
17 Plaintiff, including, without limitation, any copyright rights in the works that are the
18 subject of the Asserted Copyrights.

19 **TWENTIETH AFFIRMATIVE DEFENSE**

20 (Elements Not Protect by Copyright)

21 20. Plaintiff's copyright claims are barred to the extent that Plaintiff claims
22 rights to elements of Plaintiff's software or other works that are functional, are not
23 original, or are otherwise not protectable by copyright and/or are not protected by the
24 Asserted Copyrights.

25 **TWENTY FIRST AFFIRMATIVE DEFENSE**

26 (Fair Use)

21. Plaintiff's claims for copyright and trademark infringement are barred by the doctrine of fair use pursuant to 17 U.S.C. § 107 in view of the nature of the works asserted by Plaintiff and covered by the Asserted Copyrights and Trademarks, the amount (if any) and substantiality of the portions of such works used by VBD in relation to the works as a whole, the purpose and character of any use thereof made by VBD, and the effect, if any, of such use on the potential market for the works.

TWENTY SECOND AFFIRMATIVE DEFENSE

(De Minimis Copying)

9 22. Plaintiff's claims for copyright infringement are barred by the doctrine
10 of de minimis copying, as any protectable portions of the works that are the subject of
11 the Asserted Copyrights used by VBD have been de minimis.

TWENTY THIRD AFFIRMATIVE DEFENSE

(No Intent to Induce Copyright Infringement)

14 23. VBD has not engaged in purposeful, culpable expression or conduct
15 designed or intended to result in others infringing Plaintiff's Asserted Copyrights and
16 thus is not liable under Plaintiff's inducement claims.

TWENTY FOURTH AFFIRMATIVE DEFENSE

(Third Party Liability)

19 24. Any use in the Plaintiff's works of any protected elements of the works
20 that are the subject of the Asserted Copyrights was made by third parties without the
21 knowledge of VBD, and VBD is not liable for such use.

TWENTY FIFTH AFFIRMATIVE DEFENSE

23 25. Upon information and belief, statements and actions of Plaintiff were
24 such that it was reasonable to infer that users of the VBD works, including, without
25 limitation, manufacturers and software developers, had permission to use the
26 Asserted Copyrights.

RESERVATION OF RIGHTS

26. Defendants reserves the right to amend or add any additional defenses or counterclaims which may become known during the course of discovery.

WHEREFORE, Defendants prays as follows:

1. That Plaintiff takes nothing by way of its Complaint;
 2. A judgment dismissing Plaintiff's Amended Complaint;
 3. That Defendants recover attorneys' fees, expert fees and investigator fees;
 4. That Defendants recover costs of suit herein; and
 5. That the Court award such other and further relief as it deems appropriate.

Respectfully submitted,

Dated: August 2, 2024

COHEN IP LAW GROUP

By: /s/ Michael N. Cohen
Michael N. Cohen, Esq.
Attorney for Defendant
Virtual Barcode Distribution LLC

DEMAND FOR A JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, Defendant demands a jury trial on all claims which are triable to a jury in this action.

Respectfully submitted,

Dated: August 2, 2024

COHEN IP LAW GROUP

By: /s/ Michael N. Cohen
Michael N. Cohen, Esq.
Attorney for Defendant
Virtual Barcode Distribution LLC

CERTIFICATE OF SERVICE

I hereby certify that on the below date, I electronically mailed the foregoing document, which will serve electronic notice of the same on the following:

DORSEY & WHITNEY LLP
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Dated: August 2, 2024

/s/ Michael N. Cohen
Michael N. Cohen